



Department of Justice

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**DOJ AND FTC URGE GEORGIA BAR COMMITTEE TO REFRAIN FROM
ELIMINATING NONLAWYER COMPETITION FOR
REAL ESTATE CLOSING-RELATED BUSINESS**

Proposed Opinion to Adversely Affect Prices and Services for Georgia Consumers

WASHINGTON, D.C. -- The Department of Justice and the Federal Trade Commission (FTC) issued a letter today urging the Georgia State Bar's Standing Committee on the Unlicensed Practice of Law to reject a request for an opinion that would prevent nonlawyers from competing with lawyers to perform certain real estate closing-related functions. If the opinion is eventually approved by the committee, the Department of Justice and the FTC contend that Georgia consumers and businesses could end up paying more for real estate closing-related services and may be prevented from benefitting from competition from out-of-state and internet lenders, according to the letter, signed by R. Hewitt Pate, Acting Assistant Attorney General for the Antitrust Division, and Timothy J. Muris, Chairman of the FTC.

On March 21, 2003, the Standing Committee will hold a hearing about whether to declare the preparation of real estate deeds and the facilitation of their execution to be part of the definition of the practice of law in the state of Georgia.

"The requested opinion would subject Georgians to an artificial restraint on competition that likely would cause them to pay more for their real estate transactions," said Pate. "The opinion also may have an adverse impact on prices, as it will deter nonlawyers from entering the Georgia market and competing with the lawyers to provide these services."

"Such a ruling would likely deprive Georgians of significant benefits of competition, such as lower real estate closing costs, more convenient services, and the option to use inexpensive Internet-based loan services," said FTC Chairman Timothy J. Muris.

Pate and Muris explain in the joint letter that laws that require only lawyers to prepare deeds and facilitate their execution are less apt to protect purchasers because the lawyer performing the services will likely have been hired by the lender, not the consumer. The lender's lawyer cannot negotiate on behalf of or otherwise represent the consumer. Moreover, Pate and Muris point out that a ban on nonlawyers facilitating the execution of deeds has the potential to be overly broad, sweeping in a variety of activities regularly performed by nonlawyers.

The requested opinion covers both residential and commercial deals and purchases, refinancings, second mortgages, as well as other transactions. Opinions of the Standing Committee may be reviewed by the Georgia Supreme Court, but are not subject to any mandatory review. Thus, an opinion from the Committee may have broad impact that is not subject to any additional review.

The letter noted that consumers in much of the country can choose between lawyers and nonlawyer real estate closing services. Since 1996, both Virginia and New Jersey have considered and rejected bans on nonlawyer closing services.

The Standing Committee on the Unauthorized Practice of Law will hold its hearing on March 21, 2003, at the State Bar of Georgia in Atlanta. The Federal Trade Commission voted 5-0 to approve the letter for submission. The Department of Justice independently made its decision about approving the letter. For more information on the letter at the Department of Justice, contact Renata B. Hesse, Chief of the Networks and Technology Section, at 202/307-

6200. For more information on the letter at the Federal Trade Commission, contact Jerry Ellig, Acting Director of the FTC Office of Policy Planning, at 202/326-3528.

Copies of the documents mentioned in this release are available from the Department of Justice and the Federal Trade Commission. The Department of Justice's website is <http://www.usdoj.gov/atr>; the Federal Trade Commission's website is <http://www.ftc.gov>. Paper copies of the documents are also available from the Justice Department's Antitrust Documents Group and the Federal Trade Commission's Consumer Response Center. The Justice Department's Antitrust Documents Group can be contacted by phone: 202/514-2481, fax: 202/514-3763, or e-mail: atrdocs.grp@usdoj.gov. The Federal Trade Commission's Consumer Response Center can be contacted at Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Call toll-free: 1-877-FTC-HELP.

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